

**Education Cabinet**

**Kentucky Board of Education**

**Department of Education**

**(New Administrative Regulation)**

**704 KAR 7:160. Use of Restraint and Seclusion in Public Schools.**

RELATES TO: KRS 156.160 (1) (g); 158.444 (1)

STATUTORY AUTHORITY: KRS 156.160 (1) (g); KRS 156.070; KRS 158.444 (1)

NECESSITY, FUNCTION, AND CONFORMITY: 156.160 (1) (g) and KRS 158.444 (1) gives the Kentucky Board of Education the authority to promulgate administrative regulations related to medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the physical welfare and safety of the public school children.

The first responsibility of Kentucky schools is to ensure that schools promote learning in a safe and healthy environment for all children, teachers and staff. The use of improper restraint and seclusion by ~~districts covered entities~~ directly affects the physical welfare of students and may result in physical harm or possible death of students. Because there is no evidence that restraint or seclusion is effective in reducing the occurrence of inappropriate behaviors, restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others. Restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff. This administrative regulation establishes the requirements for appropriate use of restraint and

seclusion in ~~districts covered entities~~. and the notification and data reporting requirements for the use of restraint and seclusion in districts.

Section 1. Definitions. (1) “Aversive behavioral interventions” means a physical or sensory intervention program intended to modify behavior that the implementer knows would cause physical trauma, emotional trauma, or both, to a student even when the substance or stimulus appears to be pleasant or neutral to others and may include hitting, pinching, slapping, water spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or denial of reasonable access to toileting facilities.

(2) “Behavior intervention” means the implementation of strategies to address behavior that is dangerous, inappropriate ~~disruptive~~, or otherwise impedes the learning of the students or others.

(3) “Behavioral Intervention Plan” means a comprehensive plan for managing inappropriate or dangerous problem behavior by changing or removing contextual factors, antecedents, and consequences that trigger, maintain, or escalate inappropriate or dangerous behavior, and for teaching alternative appropriate behaviors to replace the inappropriate or dangerous behaviors. it, or and by strengthening replacement skills.

(4) “Chemical restraint” means the use of medication to control behavior or restrict a student’s freedom of movement that includes over-the-counter medications used for purposes not specified on the label but does not include medication prescribed by a licensed medical professional and supervised by qualified and trained individuals in accordance with professional standards.

(5) “Dangerous behavior” means behavior that presents an imminent danger of serious physical harm to self or others but does not include inappropriate behaviors such as disrespect, noncompliance, insubordination, or out of seat behaviors.

(6) “De-escalation” means the use of behavior management techniques intended to mitigate and defuse dangerous behavior of a student, that reduces the imminent danger risk of serious physical injury or harm to self or others.

(7) “Emergency” means a sudden, urgent occurrence, usually unexpected but sometimes anticipated, that requires immediate action.

(8) “Functional Behavioral Assessment” means a process to analyze environmental factors such as any history of trauma, the combination of antecedent factors (factors that immediately precede behavior) and consequences (factors that immediately follow behavior) that are associated with the occurrence of inappropriate or dangerous behavior and includes the collection of information through direct observations, interviews and record reviews to identify the function of the dangerous behavior and guide the development of behavioral intervention plans. ~~school-based process to determine why a child engages in problem challenging behavior and how the behaviors relate to the child’s environment that may include direct assessments, indirect assessments and data analysis designed to assist in the team to identifying and defining the problem behavior in concrete terms, identifying the contextual factors (including affective and cognitive factors) that contribute to the behavior, and formulating a hypothesis regarding the general conditions under which a behavior usually occurs and the probable stimuli consequences that maintain the behavior. Formal documentation of the assessment by appropriately qualified individuals becomes part of the child’s educational record.~~

(9) “Imminent risk of injury or harm” means a situation in which a student has the means to ~~cause physical harm or injury to self or others and such injury or harm is likely to occur at any moment, such that a reasonable and prudent person would take steps instantly to protect the student and others against the risk of such injury or harm.~~

(940) “Mechanical restraint” means the use of any device or equipment to restrict a student’s freedom of movement, but does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional that are used for the specific and approved purposes for which such devices were designed and that may include adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; restraint for medical immobilization; or orthopedically prescribed devices that permit a student to participate in activities with risk of harm. ~~any item worn by or placed on the student, which cannot be easily removed by the student that restricts freedom of movement or normal access to any portion of the student’s body movement to prevent or manage disruptive behavior but does not include restraints for medical immobilization; adaptive devices or mechanical supports used to allow greater freedom of mobility than possible without the use of such devices or supports; or, vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.~~

(1044) “Parent” means a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian. ~~a biological or adoptive parent, guardian or custodian of a minor child, except that the parent of a child with disabilities means a parent as defined in 707 KAR 1:002, Section 1 (43).~~

(1142) “Physical Restraint” means a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely but does not include temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of encouraging a student to move voluntarily to a safe location. ~~an intervention that restricts a student’s freedom of~~

~~movement or normal access to his or her body, and includes the forcible moving of a student against the student's will. Physical restraint does not include the temporary light touching or holding of the hand, wrist, arm, shoulder, hip or back for the purpose of moving a student voluntarily.~~

(1243) "Positive behavioral supports" means a school-wide systematic approach to embed evidence-based practices and data-driven decision-making to improve school climate and culture in order to achieve improved academic and social outcomes, to increase learning for all students, including those with the most complex and intensive behavior needs; and to encompass a range of systemic and individualized positive strategies to reinforce desired behaviors, to diminish reoccurrence of inappropriate or dangerous behaviors, and to teach appropriate behaviors to students. ~~a set of instructional and environmental supports to teach students pro-social alternatives to problem behaviors with high rates of positive feedback.~~

(1344) "Prone restraint" means the student is restrained in a face down position. ~~the student is face down on their stomach.~~

(1445) "School personnel" means teachers, principals, administrators, counselors, social workers, psychologists, paraprofessionals, nurses, librarians, and other support staff who are employed in a school or who perform services in the school on a contractual basis but does not include school resource officers defined in KRS 158.441 (2).

~~(16) "School resource officer" means a sworn officer of the law, deployed in community oriented policing, and assigned by the employing police department to a local educational agency.~~

(1547) "Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is prevented from leaving but does not include classroom timeouts, supervised

~~in-school detentions, or out-of-school suspensions. practice of providing a quiet, comfortable, accessible, unlocked space where a child may choose to take a break from sensory stimulation or may be supported to calm down and self regulate, and which is used within the context of a positive behavior support plan that is directly related to the function of the child's behavior.~~

(1618) "Serious bodily harm" means any bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(1719) "Student" means any person enrolled in a preschool, school level as defined in 704 KAR 5:240 Section 5, or other educational program offered by a local public school district. ~~child or adult aged 3 through 21 enrolled in a school or a program that is a covered entity as defined in this section.~~

(1820) "Supine restraint" means a student is restrained in a face up position on his or her back. ~~the student is face up on the back.~~

(1924) "Timeout" means a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming. ~~an intervention where a student requests, or request is supported to take a break complies with an adult, and is not covered by this administrative regulation.~~

Section 2. (1) Local districts shall establish local policies and procedures that:

(a) Ensure school personnel are aware of and parents are notified how to access ~~are aware of~~ its policies and procedures regarding restraint and seclusion;

(b) Are designed to ensure the safety of all students, including students with the most complex and intensive behavioral needs, ~~and school personnel,~~ and visitors;

(c) Require school personnel to be trained in accordance with the requirements outlined in Section 7 of this administrative regulation; ~~Ensure planning for the appropriate use of restraint in crisis situations carried out by a team of professionals trained in accordance with criteria for state-approved crisis intervention training programs.~~

(d) Outline procedures to be followed during and after each incident involving the imposition of physical restraint or seclusion upon a student, including notice to parents, documentation of the event in the student information system, and a debriefing process;

(e) Require notification of the Kentucky Department of Education and local law enforcement in the event of death or serious bodily harm of a student in conjunction with the use of physical restraint or seclusion;

(f) Outline a procedure by which parents may submit a complaint regarding the physical restraint or seclusion of their child, which requires the district and school to investigate the circumstances surrounding the restraint or seclusion, make written findings, and where appropriate, take corrective action; and

(g) Outline a procedure to regularly review data on restraint and seclusion usage and revise policies as needed.

(2) Local districts shall revise existing policies or develop policies consistent with this administrative regulation within ninety (90) calendar days of the effective date of this administrative regulation.

Section 3. (1) Physical restraint shall not be used:

(a) As punishment ~~to force compliance~~;

(b) As a means of coercion to force compliance or retaliation;

~~(c)~~ As a substitute for appropriate educational or behavioral support;

(de) To prevent property damage ~~that is not substantial significant or behavior that is not highly~~  
~~disruptive~~ ~~to of the environment~~ in the absence of imminent danger ~~risk~~ of serious physical  
harm to self or others; serious bodily injury.

(e) As a routine school safety measure; or

(f) As a convenience for staff.

(2) School personnel are prohibited from imposing the following on any student at any time:

(a) Mechanical restraint;

(b) Chemical restraint;

(c) Aversive behavioral interventions that compromise health and safety;

(d) Physical restraint that is life-threatening;

(e) Prone or supine restraint; ~~that restrict breathing~~ and

(f) Physical restraint that is prohibited by a licensed medical professional.

(3) Physical restraint may only be implemented if:

(a) The student's behavior poses an imminent ~~danger~~ risk of serious physical ~~bodily injury or~~  
harm to self or others.

(b) The physical restraint does not interfere with the student's ability to communicate in the  
student's primary language or mode of communication; ~~and~~

(c) The student is monitored face-to-face for the duration of the physical restraint;

~~(de)~~ Less restrictive interventions have been ineffective in stopping the imminent danger ~~risk~~ of  
serious physical injury ~~or harm~~ to self ~~the student~~ or others, except in the ~~rare~~ case of a clearly  
unavoidable emergency situation posing imminent danger of serious physical harm to self or  
others; and

(e) Assigned staff are appropriately trained to use physical restraint.



(4) When implementing a physical restraint, staff shall use only the amount of force reasonably believed to be necessary to protect the student or others from imminent danger of risk-serious physical ~~of~~ harm to ~~the student~~ self or others.

(5) The use of physical restraint shall end as soon as:

(a) The student's behavior no longer poses an imminent danger of serious physical harm to self or others; or

(ba) A medical condition occurs putting the student at risk of harm.

~~(b) The student's behavior no longer poses an imminent danger risk of serious physical injury or harm to self the students or others.~~

(6) School personnel imposing physical restraint in accordance with this regulation shall:

(a) Be trained and certified by ~~a state-approved~~ crisis intervention training program that meets the established criteria in Section 7 of this administrative regulation, except in the case of ~~rare~~ ~~and~~ clearly unavoidable emergency circumstances when trained school personnel are not immediately available due to the unforeseeable nature of the emergency circumstance; and

(b) Be trained in state regulations and school district policies and procedures regarding restraint and seclusion.

(7) The use of physical restraint as a planned intervention shall not be written into a student's Individual Education Program (IEP), Section 504 Plan, individual student safety plan, or any other planning document for an individual student.

(8) A functional behavioral assessment shall be conducted following the first incident of restraint ~~being used~~, unless one has been previously conducted for the behavior at issue.

Section 4. (1) Seclusion shall not be used:

(a) As punishment ~~to force compliance~~;

- 1 (b) As a means of coercion to force compliance or retaliation;  
 2 ~~(c)~~ As a substitute for appropriate educational or behavioral support;  
 3 ~~(d)~~ To prevent property damage ~~that is not substantial significant or behavior that is not highly~~  
 4 ~~disruptive to of the environment~~ in the absence of imminent danger risk of serious physical  
 5 harm to self or others; serious bodily injury.  
 6 (e) As a routine school safety measure;  
 7 (f) As a convenience for staff or  
 8 ~~(a) As punishment to force compliance;~~  
 9 ~~(b) To force compliance with a verbal directive;~~  
 10 ~~(c)~~ As a substitute for appropriate educational and behavioral support;  
 11 ~~(d)~~ To prevent property damage ~~destruction that is not substantial not significant or not causing~~  
 12 a high of disruption ~~ion of to the educational environment in the absence of imminent danger risk~~  
 13 of serious physical injury or harm to self or others; or  
 14 ~~(g)~~ As a substitute for timeout.  
 15 (2) Seclusion may only be implemented when:  
 16 (a) The student's behavior poses an imminent danger risk of serious physical injury ~~or harm to~~  
 17 ~~self or others;~~ or significant property damage is imminent is imminent;  
 18 (b) The student is visually monitored for the duration of the seclusion;  
 19 (c) Less restrictive interventions have been ineffective in stopping the imminent danger of  
 20 serious physical harm to self or others; and  
 21 ~~(b) The parents of a nondisabled student have provided prior written consent for the use of~~  
 22 ~~seclusion while a behavior intervention plan is being developed; and~~  
 23 ~~(d)~~ Assigned staff are appropriately trained to use seclusion.

(3) The use of seclusion shall end as soon as:

(a) The student's behavior no longer poses an imminent danger of serious physical harm to self

or others; or

(b) A medical condition occurs putting the student at risk of harm.

(4) (3) A setting used for seclusion shall:

(a) Be free of objects and fixtures with which a student could inflict physical harm to self or

others;

(b) Provide school personnel a view of the student at all times;

(c) Provide adequate lighting and ventilation;

(d) Be reviewed by district administration to ensure programmatic implementation of guidelines

and data related to its use;

~~4. If a room is used for seclusion, the room shall:~~

~~(ea)~~ Have an unlocked and unobstructed door; and

~~(fb)~~ Have at least an annual fire and safety inspection.

Section 5. (1) All incidents of the use of restraint and seclusion shall be documented by a written

record of each episode of seclusion or physical restraint and be maintained in the student's

education record. Each incident record shall include:

(a) The student's name;

(b) A description of the incident and the student behavior that resulted in the restraint or

seclusion;

(c) The date of the incident and staff members involved;

(d) The beginning and ending times of the incident;

- (e) A description of any ~~relevant~~ events leading up to the use of restraint or seclusion including possible factors contributing to the dangerous behavior;
- (f) A description of the student's behavior in restraint or seclusion;
- (g) A description of techniques used in restraining or secluding the student and any other interactions between the student and staff during the use of restraint or seclusion;
- (h) A description of any interventions used immediately prior to the implementation of restraint or seclusion;
- (i) A description of any injuries whether to students, staff, or others ~~or property damage~~;
- (j) An explanation as to why this behavior posed an imminent danger of serious physical harm to self or others; ~~A description of any planned approach to dealing with the student's behavior in the future~~;
- (k) The date the parent was notified;
- (l) A description of the effectiveness of restraint or seclusion in de-escalating the situation; and
- (m) A description of staff response to the dangerous behavior.
- (2) The parent of the student shall be notified of the restraint and seclusion verbally or through electronic communication, if available to the parent, on the same day as the incident. If the parent cannot be reached that day, a written communication shall be sent to the parent within 24 hours of the incident.
- (3) The principal of the school shall be notified of the seclusion or physical restraint as soon as possible, but no later than the end of the school day on which it occurred.
- (4) The incident record of the incident as outlined in Section 5 (1) of this administrative regulation shall be completed within 24 hours following the incident episode of seclusion or physical restraint.

(5) After the imposition of restraint and seclusion upon a student, all school personnel who were in the proximity of the student immediately before and during the time of the incident, the parent, the student, if the parent requests or if the student is an emancipated minor or an adult, appropriate supervisory and administrative staff, that may include appropriate Admissions and Release Committee members, Section 504 team members, or response to intervention team members shall participate in a debriefing session.

(a) The debriefing session shall occur as soon as practicable, but not later than five (5) school days following the imposition of seclusion or physical restraint, unless delayed by written mutual agreement of the parent and the school.

(b) The debriefing session shall include:

1. Identification of the events leading up to the seclusion or physical restraint;
2. Consideration of relevant information in the student's records and information from teachers, parents, other school district professionals, and the student;
3. Planning for the prevention to prevent and reduction ~~reoccurrence~~ of the need for seclusion or physical restraint, with consideration of the results of functional behavioral assessments, whether positive behavior plans were implemented with fidelity, recommended appropriate positive behavioral interventions, and supports to assist personnel responsible for implementing the student's IEP, ~~or~~ Section 504 plan, or response to intervention plan, if applicable; and
4. For any student not identified as eligible for services under either Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act, evidence of a referral under either law, or documentation of the basis for declining to refer the student.

(c) All documentation utilized in the debriefing session shall become part of the students education record.

Section 6. (1) If serious bodily harm or death of a student occurs in conjunction with the use of physical restraint or seclusion, the school district ~~covered entity~~ shall send notice to notify local law enforcement and the Kentucky Department of Education and local law enforcement, within twenty four (24) hours of the death or harm.

Section 7. (1) School personnel shall be trained to use an array of positive behavior interventions, strategies, and supports to increase appropriate student behaviors and decrease inappropriate or dangerous student behaviors.

(2) All school personnel, ~~except for school resource officers~~, in local districts shall have annual basic training in responding to students in a behavioral crisis. The training shall include:

(a) Appropriate procedures for preventing the need for physical restraint and crisis intervention, and including positive behavior management strategies, proper use of positive reinforcement, the continuum to use of alternative behavioral interventions, crisis prevention, and de-escalation strategies of problematic behavior, including verbal de-escalation, and relationship building; and

~~(a) Strategies regarding conflict de-escalation, including verbal de-escalation;~~

(b) Identification of staff in the school setting that have been trained to engage in physical restraint or seclusion procedures.

~~(c) Strategies for preventing and avoiding the need for restraint and seclusion by using positive behavior supports and reinforcing appropriate student behavior.~~

(3) A core team of selected school personnel shall be designated to respond to emergency situations, including the physical restraint or seclusion of students. The core team shall receive yearly training in the following areas:

(a) Appropriate procedures for preventing the need for physical restraint or crisis intervention that shall include the de-escalation of problematic behavior, relationship building, and the use of alternatives to restraints;

(b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint or crisis intervention and methods for evaluating the risk of harm in individual situations, in order to determine whether the use of physical restraint or crisis intervention is safe and warranted;

(c) Simulated experience of administering and receiving physical restraint and crisis intervention, and instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and reporting requirements and investigation of injuries; and

(e) Demonstration by participants of proficiency in administering physical restraint and crisis intervention.

Section 8. (1) The following data shall be reported in the student information system related to incidents of restraint and seclusion:

(a) A description of any ~~relevant~~ events leading up to the use of restraint or seclusion;

(b) A description of the student's behavior in restraint or seclusion;

(c) A description of techniques used in restraining or secluding the student and any other interactions between the student and staff during the use of restraint or seclusion;

(d) A description of any interventions used immediately prior to the implementation of restraint or seclusion;

(e) A description of any injuries whether to students, staff, or others;

- 1 (f) The date the parent was notified;
- 2 (g) The date the debriefing session held; and
- 3 (h) A description of any incidents in which a school resource officer is involved in the restraint
- 4 or seclusion of a student.

5 Section 9. Incorporation by Reference. (1) The United States Department of Education “Restraint  
6 and Seclusion: Resource Document” May 15, 2012, is incorporated by reference.

7 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at  
8 the Division of Learning Services, Department of Education, 18th Floor, Capital Plaza Tower,  
9 Frankfort, Monday through Friday, 8 a.m. through 4:30 p.m.